

EXHIBIT 35

CONFIDENTIAL



Transcript of Mary Winter

Monday, May 9, 2022

***National Coalition on Black Civic Participation, et al.
v. Jacob Wohl, et al.***

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Reference Number: 116296

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE SOUTHERN DISTRICT OF NEW YORK

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4 NATIONAL COALITION ON BLACK CIVIC PARTICIPATION,
5 MARY WINTER, GENE STEINBERG, NANCY HART, SARAH
6 WOLFF, KAREN SLAVEN, KATE KENNEDY, EDA DANIEL and
ANDREA SFERES,

7 Plaintiffs, Civil Action No.

8 -and- 1:20-cv-08668-VM-OTW
9

10 People of the STATE OF NEW YORK, by its Attorney
11 General, LETITIA JAMES, ATTORNEY GENERAL OF THE
STATE OF NEW YORK

12 -vs-

13 JACOB WOHL, JACK BURKMAN, J.M. BURKMAN & ASSOCIATES,
14 LLC, PROJECT 1599, MESSAGE COMMUNICATIONS, INC.,
ROBERT MAHANIAN and JOHN and JANE DOES 1-10

15 Defendants.

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17
18 Deposition of MARY WINTER, Plaintiff, herein,
19 taken by Defendant, pursuant to Notice via Zoom, on
20 Monday, May 9, 2022, at 1:20 p.m., before Deirdre
21 Smith, a stenographer and notary public within and
22 for the State of New York.
23
24
25

1 A P P E A R A N C E S

2

3 ORRICK HERRINGTON & SUTCLIFFE, LLP

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11 FRANKLIN MONSOUR, ESQ.

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20 BY: RANDY KLEINMAN, ESQ.

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1 A P P E A R A N C E S (continued)

2

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4 Appearing on behalf of Plaintiff

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8 BY: MARC EPSTEIN, ESQ.

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12 STATE OF NEW YORK OFFICE OF THE ATTORNEY GENERAL

13 Appearing on behalf of Plaintiff

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17 BY: COLLEEN FERITY, ESQ.

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1 A. Yes.

2 Q. What address are you registered to vote
3 at?

4 A. I believe at my home address.

5 Q. Okay. Is this -- how long have you been
6 registered to vote at that address?

7 A. Since 2016.

8 Q. And more generally how long have you been
9 registered to vote for?

10 A. Since I was eighteen.

11 Q. What political party are you registered
12 for?

13 MS. ROEHRS: Objection.

14 A. I honestly don't remember at the moment.

15 Q. Did you vote in the 2020 presidential
16 election?

17 A. Yes.

18 Q. Did you vote in person or by mail?

19 A. In person.

20 Q. Prior to November of 2020 had you voted in
21 person in any other elections before?

22 A. Yes.

23 Q. How many, approximately?

24 A. I regularly voted in general elections
25 since I was registered to vote.

1 says, don't be finessed to giving your private
2 information, stay safe and beware of vote by mail.
3 What about this statement in particular do you
4 believe to be false?

5 A. Beware of vote by mail.

6 Q. So, the statement of beware of vote by
7 mail, you believe to be a false statement?

8 MS. ROEHRS: Objection.

9 A. I believe it to be intimidating, so, yes.

10 Q. What specifically do you believe about it
11 is intimidating?

12 A. The admonition to stay safe and to beware.

13 Q. Specifically, do you feel that that is an
14 intimidating statement?

15 MS. ROEHRS: Objection.

16 A. Absolutely. It implies that there is
17 something unsafe and something to be wary of.

18 Q. So, by telling someone -- is it your
19 testimony by telling someone to stay safe, that that
20 is an intimidating statement?

21 MS. ROEHRS: Objection.

22 A. No.

23 Q. Were you personally intimidated by the
24 robocall?

25 MS. ROEHRS: Objection.

1 A. Yes.

2 Q. How so?

3 A. I found that it sounded very scary and
4 threatening and made me not sure that I could trust
5 that methods of voting were not being targeted for
6 partisan reasons.

7 Q. So, you recognized, is it fair to say --

8 MR. KLEINMAN: Withdrawn.

9 Q. When you received the robocall you
10 believed its contents to be false though, correct?

11 A. Correct.

12 Q. Okay. Yet, is fair to say that you were
13 never the less intimidated by what you believed to
14 be false statements?

15 MS. ROEHRS: Objection.

16 A. The fact that someone would go to efforts
17 to create this call made me very concerned about
18 whether or not there would be tampering.

19 Q. Do you think there was any legitimacy
20 behind those concerns about tampering?

21 MS. ROEHRS: Objection.

22 A. I don't know.

23 Q. Is it fair to say you'd be grateful if
24 there was truth behind the fact that your vote could
25 be tampered with and you were warned about such

1 A. Correct.

2 Q. And prior to receiving the robocall you
3 had --

4 MR. KLEINMAN: Withdrawn.

5 Q. Prior to receiving the robocall did you
6 hear any report about any kind of concern, other
7 people expressing concerns about mail-in voting?

8 MS. ROEHRS: Objection.

9 A. I don't remember.

10 Q. Did you read any literature or anything
11 regarding mail-in voting prior to receiving the
12 robocall?

13 MS. ROEHRS: Objection.

14 A. I don't remember.

15 Q. Why did you vote in-person in the 2020
16 presidential election?

17 A. Because it seemed like the safest option.

18 Q. Why did it seem like the safest option?

19 A. Because I could watch my ballot be
20 counted.

21 Q. Okay. So, is it fair to say that you
22 thought voting in person was safer than voting by
23 mail?

24 A. Yes.

25 Q. Did your decision to vote in person have

1 anything to do with the robocall?

2 A. Yes.

3 Q. What?

4 A. Again, I was concerned that mail-in voting
5 was potentially being targeted.

6 Q. Who is Yael Cohen?

7 A. A friend.

8 Q. Okay. Why did you feel, why did you
9 decide to play the robocall for him?

10 A. I thought he would find it interesting.

11 Q. Why did you think he would find it
12 interesting?

13 A. Because of my personal experience.

14 Q. What specifically about your personal
15 experience with Mr. Cohen made you think he would
16 find it interesting?

17 A. Our friendship.

18 Q. Okay. What about your friendship with Mr.
19 Cohen made you think he would find it interesting?

20 A. My opinion of him as my friend and what he
21 would find interesting.

22 Q. Was there something about Mr. Cohen's
23 background in particular that you believed he would
24 find this interesting?

25 A. No.

1 personally besides what you've already told me?

2 A. It was very distressing.

3 Q. Aside from being distressing how did you
4 it effect you?

5 A. It changed the way I planned to vote in
6 the 2020 election.

7 Q. Anything else?

8 A. Again, it just made me deeply concerned
9 about our election process.

10 Q. Do you believe the robocall was designed
11 to target a particular group of voters?

12 MS. ROEHRS: Objection.

13 A. I don't know.

14 Q. Do you believe the robocall was racially
15 motivated?

16 MS. ROEHRS: Objection.

17 A. I don't know.

18 Q. You understand that a basis of this
19 lawsuit is that the robocall was racially motivated?

20 MS. ROEHRS: Objection.

21 A. I can't speculate.

22 Q. Well, I'm not asking you to speculate.
23 I'm asking whether you know the basis of the lawsuit
24 is that the robocall was racially motivated?

25 A. I'm not sure I agree with that. I believe

1 with this group of five people four to five times
2 per week in person?

3 MS. ROEHRS: Objection.

4 A. He's better at remembering those sort of
5 things.

6 Q. Do you have any reason to doubt Mr.
7 Steinberg's testimony?

8 A. No.

9 Q. In August of 2020 did you leave your house
10 to go grocery shopping?

11 A. No.

12 Q. Okay. In August of 2020 did you leave
13 your house for any reason other than to socialize
14 with this group of approximately five people?

15 A. I don't remember.

16 Q. Between August of 2020 and March --

17 MR. KLEINMAN: Withdrawn.

18 Q. Between August of 2020 and December of
19 2020 --

20 MR. KLEINMAN: Withdrawn.

21 Q. Between August of 2020 and March of 2021,
22 besides the five person social group what other
23 reasons, if any, did you leave your house?

24 MS. ROEHRS: Objection.

25 A. Just to go for a walk.

C E R T I F I C A T I O N

THIS IS TO CERTIFY, THAT I, DEIRDRE M. SMITH,
on Monday, May 9th of 2022, reported the proceedings
contained in the foregoing 84 pages at the time and
place as set forth in the heading in the foregoing
matter. That the transcript is a true and accurate
transcription of my stenographic notes, using
Computer Aided Transcription, to the best of my
ability.

IN WITNESS WHEREOF, I have hereunto set my had
this 23rd day of May, 2022.



Deirdre M. Smith